

RECEIVED  
CENTRAL FAX CENTER

OCT 05 2005

**DILLON & YUDELL LLP**  
ATTORNEYS AT LAW

## USPTO FACSIMILE TRANSMITTAL SHEET

TO:	FROM:	
Examiner Man U Phan	Andrew J. Dillon, Reg. No. 29,634	
ORGANIZATION:	DATE:	
US Patent and Trademark Office	October 5, 2005	
ART UNIT:	CONFIRMATION NO.:	TOTAL NO. OF PAGES INCLUDING COVER:
2665	2996	6
FAX NUMBER:	APPLICATION SERIAL NO.:	
571-273-8300	09/373,837	
ENCLOSED:	ATTORNEY DOCKET NO.:	
Notice of Appeal, Pre-Appeal Brief Request For Review, Reason for Pre-Appeal Brief Request For Review	RA9-99-005	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

RECEIVED  
OIP/IAF  
OCT 06 2005

This fax from the law firm of Dillon & Yudell LLP contains information that is confidential or privileged, or both. This information is intended only for the use of the individual or entity named on this fax cover letter. Any disclosure, copying, distribution or use of this information by any person other than the intended recipient is prohibited. If you have received this fax in error, please notify us by telephone immediately at 512.343.6116 so that we can arrange for the retrieval of the transmitted documents at no cost to you.

8911 N. CAPITAL OF TEXAS HWY., SUITE 2110, AUSTIN, TEXAS 78759  
512.343.6116 (V) • 512.343.6446 (F) • DILLONYUDELL.COM

OCT 05 2005

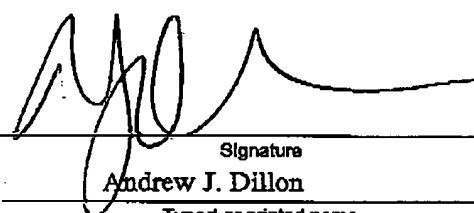
Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0851-006x

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]		Application Number	Filed
on <u>10-5-05</u>		09/373,837	08/13/1999
Signature <u>Jane Graham</u>		First Named Inventor	
Typed or printed name <u>Jane Graham</u>		Metin Ay6demir	
		Art Unit	Examiner
		2665	Man U Phan
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98)		Andrew J. Dillon	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>29,634</u>		Typed or printed name	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		512-343-6116	
		Telephone number	
		<u>10-5-05</u>	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-0199 and select option 2.

OCT 05 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: RA9-99-005

In re Application of:

METIN AYDEMIR

Serial No.: 09/373,837

Filed: August 13, 1999

For: DELAYED-START METHOD FOR  
INTERNAL FLOW CONTROL IN PACKET  
SWITCHES§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Examiner: Volper, Thomas E.

Art Unit: 2665

REASON FOR PRE-APPEAL BRIEF REQUEST FOR REVIEWMail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In the final rejection dated July 8, 2005, having a shortened statutory period set to expire October 8, 2005, the Examiner, in paragraph six thereof, rejects Claims 1, 3-6, 22, 24, 26 and 28-30 under 35 U.S.C. § 1.03(a) as being unpatentable over *Fichou et al.*, United States Patent Number 5,790,522. As Applicant has previously canceled claims 7 and 19 and thus, only Claims 1-6, 8-18 and 20-25 remain pending in this application, the Examiner's rejection will be treated, for purposes of this request, as being applied to Claims 1-6, 8-18, and 20-24.

Certificate of Transmission/Mailing

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the date shown below.

Typed or Printed Name: Jane Graham Date: October 5, 2005 Signature: 

*Fichou et al.* discloses a method and system for controlling traffic congestion in a data communication network. Data is transmitted between nodes which include a switch fabric for switching the network data between receive adapters connected to network node input lines and transmit adapters connected to network node output lines. Each adapter switch within the *Fichou et al.* reference defines a period of time for pausing transmission, as described at column 8, lines 2-8 thereof. However, as expressly set forth at column 8, lines 12 *et seq.* there are only two timer values T1 and T2. *Fichou et al.* expressly teach "Timer value T1 is used where an NRT packet is being transmitted when congestion is detected. Timer value T2 is used where an NR packet is being transmitted when congestion is detected." Thus, as expressly set forth within *Fichou et al.*, the time period for pausing a transmission is one of two fixed time values which are determined based upon the particular type of packet which is being transmitted once congestion is detected and not based upon input buffer capacity as expressly set forth within the claims of the present application.

In Claims 1,13 and 25 the present invention is described as including a determination of input buffer capacity of an input section during a pause and there after, computing a delay interval "based upon said determined input buffer occupancy...." which may then be utilized to delay restart of data transmission in accordance with that computed delay interval. As *Fichou et al.* expressly teaches the utilization of delay periods which are determined based upon the type of data being transmitted and as *Fichou et al.* is entirely silent with regard to any teaching regarding computing a delay interval based upon input buffer capacity the Examiner's rejection of these claims over this reference is not believed to be well founded.

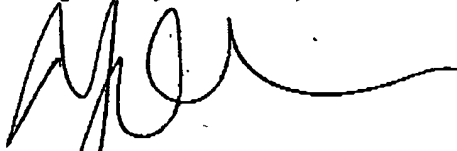
The Examiner has also rejected Claim 25 under 35 U.S.C. § 1.03(a) as being unpatentable over *Fichou et al.* as applied to the other claims and further in view of *Ljungberg et al.*, United States Patent Number, 5,493,566. That rejection is also not believed to be well founded. The Examiner cites *Ljungberg et al.* for its teaching of a flow control system for packet switches which throttles traffic coming from input buffers in response to output buffers reaching a threshold value without regard to priority; however, no teaching within *Ljungberg et al.* cures the deficiency of *Fichou et al.* in that these two references, whether considered alone or in combination, fail to show or suggest in any way the computation of a delay interval based upon input buffer occupancy as expressly set forth within the present claims.

In view of the above, Applicant urges that the Examiner's rejection of these claims is inappropriate and review of those rejections is respectfully requested.

**CONCLUSION**

No additional fee is believed to be required; however, in the event any additional fees are required, please charge IBM Corporation Deposit Account No. 50-0563. No extension of time is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time to IBM Corporation Deposit Account No. 50-0563.

Respectfully submitted,



Andrew J. Dillon

Registration No. 29,634

Dillon & Yudell LLP

8911 Capital of Texas Hwy, Suite 2110

Austin, Texas 78759

(512) 343-6116

ATTORNEYS FOR APPLICANT